

## **EXHIBIT C**

DEPOSITION OF JEFFREY LOW  
CONDUCTED ON THURSDAY, MARCH 13, 2003

Page 1

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MARYLAND

-----x

DIAGNOSTIC RESEARCH	x	VOLUME 1
GROUP, LLC,	x	
Plaintiff	x	U.S. District Court
v.	x	Civil No. L-02-3020
TOSHIBA AMERICA MEDICAL	x	
SYSTEMS, INC.,	x	Court Case No.
Defendant	x	03-C-02-006016

-----x

Deposition of JEFFREY LOW  
Baltimore, Maryland  
Thursday, March 13, 2003  
2:20 P.M.

Job No. 1-13715

Pages 1 - 152

Reported by: Sharon D. Livingston, CSR-RPR

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Deposition of JEFFREY LOW, held at the  
offices of:  
  
LAW OFFICE OF LEONARD J. SPERLING  
Commercentre West, Suite 212  
1777 Reisterstown Road  
Baltimore, Maryland 21208  
(410) 653-0141

Pursuant to Notice, before Sharon D.  
Livingston, Registered Professional Reporter and  
Notary Public of the State of Maryland.

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A P P E A R A N C E S

ON BEHALF OF THE PLAINTIFF:  
SAMUEL SPERLING, ESQUIRE  
LAW OFFICE OF LEONARD J. SPERLING  
Commercentre West, Suite 212  
1777 Reisterstown Road  
Baltimore, Maryland 21208  
(410) 653-0141

ON BEHALF OF THE DEFENDANT:  
BROOKE SCHUMM, III, ESQUIRE  
DANEKER, MCINTIRE, SCHUMM, PRINCE,  
GOLDSTEIN, MANNING & WIDMANN, P.C.  
1 North Charles Street, Suite 2450  
Baltimore, Maryland 21201  
(410) 649-4747

ALSO PRESENT: JOHN HUTTON

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C O N T E N T S

EXAMINATION OF JEFFREY LOW PAGE  
By Mr. Schumm 6

E X H I B I T S

(Attached to Deposition Transcript)

LOW DEPOSITION EXHIBITS PAGE

1 Defendant Toshiba's Notice of Deposition of Custodian of Documents	6
2 Defendant Toshiba's Request for Production of Documents (Remarked)	30 31
3 Copy of checks numbered 2314 and 2311 Bates number 100095	61
4 Copy of checks numbered 2309 and 2310 Bates number 100096	61
5 Copy of checks numbered 2307 and 2308 Bates number 100097	62
6 Copy of checks numbered 2287 and 2286 Bates number 100101	63
7 Document headed Open MRI MD Imaging, LLC, Bates number 102021	124

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E X H I B I T S C O N T I N U E D

(Attached to Deposition Transcript)

LOW DEPOSITION EXHIBITS PAGE

8 Fax dated 8-11-99 from Nader Rad to Jeffrey H. Kreshtool; Quotation/Orders and Order Details, Bates numbers 102301 through 102314	141
9 Letter dated 7-8-99 from Jeffrey H. Kreshtool to Robert McAveney; fax dated 10-12-99 from J. Eric Atherholt to Jeffrey H. Kreshtool; correspondence dated 11-11-99 from Robert M. Rodolico to Jeffrey Low, Kim Stehman; fax cover sheet; fax dated 11-12-99 from Jeffrey H. Kreshtool to Nader Rad; facsimile transmittal sheet dated 11-15-99; fax dated 11-15-99 from Jeffrey H. Kreshtool to Rick Atherholt Bates numbers 102315 through 102322	147

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P R O C E E D I N G S

JEFFREY LOW,

having been duly sworn, testified as follows:

EXAMINATION BY COUNSEL FOR DEFENDANT

BY MR. SCHUMM:

Q Mr. Low, could you spell your name and give your residence and business address for the record, please.

A Jeffrey Low, L-o-w. My current business address is 1122 Kennilworth, K-e-n-n-i-l-w-o-r-t-h, Drive, and that's Towson, T-o-w-s-o-n, Maryland.

Q And what's your residence address?

A 8402 Topping, T-o-p-p-i-n-g, Road, Pikesville, P-i-k-e-s-v-i-l-l-e, Maryland.

(Low Deposition Exhibit 1 was marked for identification and attached to transcript.)

BY MR. SCHUMM:

Q Mr. Low, I'm going to show you what I've marked as Exhibit 1. This is an unsigned copy of Defendant Toshiba's Notice of Deposition of Custodian of Documents, which I served on your counsel.

Have you ever seen that document before?

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A I believe so, yes.

MR. SCHUMM: Off the record.

(Discussion off the record.)

BY MR. SCHUMM:

Q Can I direct your attention to the third page of that Exhibit 1, please. If you could go down that list. Let's just take each category. Documents associated with the allegations, paragraph by paragraph, of the complaint.

Are you the custodian of those records?  
Who would be the person who would be the custodian of those records?

A I don't have those on my --

MR. SPERLING: If there's stuff that you don't have, have you given it to me?

THE WITNESS: Yes.

MR. SPERLING: Okay.

BY MR. SCHUMM:

Q Okay. That's fair. Sort of as a ground rule, we probably ought to make this kind of clear. If you gave it to your attorney, I'll ask you what happened to it, if you don't have it, but if you say,

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hey, I gave it to my attorney, then I simply have to ask Mr. Sperling, and I take it all that stuff's been turned over to me? And he'll either say, well, I extracted three privileged documents or yeah, I handed you the pile when we were all here a couple of weeks ago. So back at the line of questioning here.

A Number 1, my attorney would have that.

Q Okay. So whatever you had that had to do with the allegations in the complaint you gave to your attorney, and based on what he said before, we're just going to assume, Mr. Sperling, that you've given me all this stuff unless you say they're somehow withheld.

MR. SPERLING: I'll say if otherwise.

BY MR. SCHUMM:

Q Number 2. Documents associated with the conduct of the business of DRG.

A That would also be in the hands of my attorney.

Q And you would have been the former custodian of that, or would anybody else be the custodian of any of those records?

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A Myself or Ms. Stehman.

Q Did you ask her for her stuff to be given to you or to Mr. Sterling?

A I had asked everything to be given to Mr. Sperling.

Q So to the best of your knowledge, she's not holding any documents?

A At this point I don't think so.

Q What about any accountant that you had in the business, did you ask him for records?

A Yes, I have.

Q And where are those records?

A Those records I've asked to have sent also to Mr. Sperling.

MR. SPERLING: That would primarily be the tax records.

MR. SCHUMM: We don't have those yet?

MR. SPERLING: I don't have those yet.

BY MR. SCHUMM:

Q When did you make that request of him?

A A couple of weeks ago I believe.

Q Did you know that we served a request for

3 (Pages 6 to 9)

DEPOSITION OF JEFFREY LOW  
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1 production of documents in November of last year?  
2 A No, I didn't.  
3 MR. SPERLING: I'll just represent I made  
4 earlier requests, left telephone messages asking for  
5 those records.  
6 BY MR. SCHUMM:  
7 Q But as of yet we don't have whatever he's  
8 got, which we hope includes the tax records?  
9 A Correct.  
10 Q How about documents associated with the  
11 financial affairs of Diagnostic Resource Group?  
12 A Those too I've given to Mr. Sperling.  
13 Q Except for the ones that the accountant may  
14 not have yet transmitted?  
15 A Correct.  
16 Q What's his name?  
17 A Vince Batyr.  
18 Q Where is he?  
19 A He's in New York.  
20 MR. SPERLING: Terrytown.  
21 BY MR. SCHUMM:  
22 Q How was it you got hooked up with him in

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1 New York?  
2 A I'm originally from New York.  
3 Q Okay. Contracts with any third party, have  
4 you turned all those over?  
5 A Yes.  
6 Q And third party means anybody other than  
7 Diagnostic Resource Group.  
8 Do you understand that?  
9 A No.  
10 Q Well, if you had contracts with any person  
11 other than Diagnostic Resource Group, except for your  
12 lawyer, which you don't have to turn over, have you  
13 turned over all those contracts?  
14 A Yes.  
15 Q So that would include contracts with  
16 De Lage Landen?  
17 A Uh-huh.  
18 Q Does it also include contracts with  
19 Toshiba?  
20 A Yes.  
21 Q Or with another entity called Toshiba  
22 America Medical Credit, you've turned over those

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1 contracts?  
2 A Yes.  
3 Q And what about any contracts that existed  
4 between you and any of your affiliates, have you  
5 turned all those over?  
6 A Yes.  
7 Q Were there any of those type of contracts?  
8 MR. SPERLING: Why don't you define what  
9 you mean by affiliate.  
10 BY MR. SCHUMM:  
11 Q Affiliate is any company in which you have  
12 a financial, employment or ownership interest for  
13 purposes of this question.  
14 Did you have any contracts with them?  
15 MR. SPERLING: By you, you doesn't mean  
16 Jeffrey Low? You means DRG?  
17 MR. SCHUMM: Yeah, you is always going to  
18 mean DRG.  
19 MR. SPERLING: So did DRG have any  
20 contracts with any other entity in which you had an  
21 interest?  
22 THE WITNESS: No.

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1 MR. SCHUMM: Okay. So you had none to turn  
2 over?  
3 THE WITNESS: Correct.  
4 MR. SPERLING: And you've also gotten the  
5 property lease, which is a contract.  
6 MR. SCHUMM: That's right. I can't  
7 remember whether it was signed or unsigned, but I  
8 assume it was the copy that you had.  
9 BY MR. SCHUMM:  
10 Q Are you the custodian who would know the  
11 location of all of DRG's corporate documents,  
12 including paper and electronic records?  
13 A I'm one of them, yes.  
14 Q Who would be the other person?  
15 A Ms. Stehman.  
16 Q So there's really two custodians of  
17 documents? Is that what you're telling me?  
18 A That's correct. Those records would also  
19 be given to Mr. Sperling.  
20 Q Why would she be holding records?  
21 A Ms. Stehman acted as the manager of the  
22 center, DRG.

4 (Pages 10 to 13)

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1 Q How about computers and computers records,  
2 who would be the custodian of those?  
3 A She would be.  
4 Q Where are those computers and computer  
5 records?  
6 A I don't know.  
7 Q What efforts were made to locate them?  
8 A Quite a bit.  
9 Q Tell me about them.  
10 A Basically going through our old computer  
11 equipment and not finding any information relating to  
12 DRG on them and kind of not our understanding where  
13 they've gone. Whether it was from a move or what  
14 have you, or cleaning out the facility, I don't know.  
15 Q When would this cleaning out to which you  
16 referred have taken place?  
17 A Some time after the scanner was removed I  
18 guess.  
19 Q So this is after the deinstallation in  
20 roughly early November of 1999?  
21 A Correct.  
22 Q And you mentioned a move.

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1 What other moves would you be referring to?  
2 A That was the move I was referring to.  
3 Q Any other reason why those records would  
4 have been lost?  
5 A No.  
6 Q Were there computer records stored on the  
7 computers at DRG prior to the move and  
8 deinstallation?  
9 A I can't say no, but I'm not quite sure.  
10 I'm sure there might be notes and patient information  
11 and logs and things like that.  
12 Q When you say notes, what do you mean by  
13 that?  
14 A Well, like scheduling and things like  
15 that. Like I would guess that my marketing person  
16 who logged all her information into the computer had  
17 taken notes and so forth on marketing and following  
18 up with our DRG's prospective clients.  
19 Q And when you referred to patient  
20 information, what do you mean?  
21 A I mean just that. I mean patient  
22 scheduling as well as possible billing information

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1 and marketing.  
2 Q And you referred to another category.  
3 Notes, patient information. What was the other thing?  
4 MR. SPERLING: Maybe just have the court  
5 reporter read it back.  
6 MR. SCHUMM: Yeah. About three or four  
7 questions ago, the response.  
8 (Record read by reporter.)  
9 MR. SCHUMM: Okay. Thank you.  
10 THE WITNESS: I can't be certain though.  
11 BY MR. SCHUMM:  
12 Q What about logs?  
13 MR. SPERLING: Do you want him to define  
14 them or tell you where they are or both?  
15 BY MR. SCHUMM:  
16 Q Well, let's start out with do you  
17 understand what I -- You used the word logs.  
18 What do you mean by the word logs?  
19 A I mean just a place where information for  
20 the marketing person categorized or input all of her  
21 information on her daily work efforts.  
22 Q What was the name of the person you --

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1 A Her name was Debbie.  
2 Q A couple of rules of the game here.  
3 MR. SPERLING: Let Mr. Schumm finish his  
4 question. Then you answer.  
5 BY MR. SCHUMM:  
6 Q You can't give nonverbal answers. You  
7 can't shake your head or nod your head or whatever.  
8 You want to say something out loud. Make sure you  
9 let me finish the question. You might be really  
10 surprised what you just said yes to or no to, and we  
11 don't want that to happen either.  
12 A Sorry.  
13 Q So at any rate, my question was when you  
14 say marketing person, to whom are you referring to?  
15 A Debbie Rittmiller, R-i-t-t-m-i-l-l-e-r.  
16 Q What was her position?  
17 A She was the marketing person, director.  
18 Q When you refer to logs, anything else that  
19 would have been kept as logs?  
20 A Not to my knowledge.  
21 Q How about maintenance logs?  
22 A I don't believe those were kept in the

5 (Pages 14 to 17)

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1 computer. I believe those were just kept between Ms.  
2 Stehman and the service rep.

3 Q And where are those?

4 A I believe Mr. Sperling should have them.

5 Q He didn't turn over to me any maintenance  
6 logs.

7 A Okay. I do not have them.

8 Q Who would have them if you don't have them?

9 A If I don't have them, Ms. Stehman would  
10 have them.

11 Q Why would she sort of have half the stuff  
12 still and you have half the stuff still?

13 A I don't know why. I think basically  
14 because Kim essentially ran the center. I had very  
15 little to do with the service personnel that were  
16 coming in every day. I had very little to do with  
17 operating any of the equipment -- nothing as far as  
18 operating the equipment or logging the problems on a  
19 daily basis. So Ms. Stehman would have all of those.

20 Q Were there any logs with respect to  
21 scheduling of patients or diaries or calendars with  
22 respect to scheduling patients?

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1 A I believe so.

2 Q And where are those?

3 A Those also would be with Ms. Stehman or  
4 would have been turned over to Mr. Sperling.

5 MR. SPERLING: I will represent I've given  
6 you a quantum of those.

7 BY MR. SCHUMM:

8 Q Is it fair to say, Mr. Low, that if Mr.  
9 Sperling doesn't have it, relying on the truthfulness  
10 of his representation that he turned everything over  
11 to me, then it doesn't exist anymore? Is that a fair  
12 assumption?

13 A It's a fair assumption that yes, I would  
14 say that unless Ms. Stehman has some items that I  
15 don't know about at this point.

16 Q We'll obviously run through this with her.  
17 I didn't realize she was an additional custodian.

18 Next on the list is DRG's records retention  
19 policy.

20 Did you have a records retention policy?

21 A I wouldn't say a policy, no.

22 Q What was the practice?

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1 A Logging patient information, scheduling as  
2 we just discussed, and that's about it.

3 Q If I could just focus you a little bit  
4 more. The question is records retention.

5 Did you have a policy or practice relative  
6 to storing, hanging on to, and so on, with respect to  
7 records?

8 A No, we did not.

9 Q Isn't it true that under applicable federal  
10 regulations you have obligations to retain patient  
11 records for a certain period of time?

12 A I believe so.

13 Q And what was done to comply with those  
14 regulations?

15 A Film storage.

16 Q Where are they stored?

17 A I believe they're with Ms. Stehman.

18 MR. SPERLING: Still on the record and  
19 prior, here at the deposition we had we talked about  
20 those backup tapes. I believe, but I cannot vouch,  
21 that that's the reference. It's kept on backup  
22 tapes?

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1 THE WITNESS: I believe so, along with some  
2 hard copy of film of patient charts.

3 BY MR. SCHUMM:

4 Q I think when Mr. Sperling and I talked  
5 about this before, I don't think he was aware,  
6 because he didn't say he was to me, and I'm inclined  
7 to think he wasn't aware then. He just said that  
8 there were backup tapes around. He didn't know  
9 anything about the other ones.

10 MR. SPERLING: I think there were backup  
11 tapes.

12 MR. SCHUMM: He's saying there's hard copy  
13 film and patient charts. I'm saying I don't think  
14 you knew about that.

15 MR. SPERLING: No. Patient charts I did  
16 give you. We met in my office on Monday morning.

17 MR. SCHUMM: Some stuff was given to me;  
18 that's right.

19 MR. SPERLING: Right. And I gave you some  
20 patient charts.

21 BY MR. SCHUMM:

22 Q What about the hard copies of the scans?

6 (Pages 18 to 21)



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1 A I believe Kim has some of the hard copies  
2 of the scans.  
3 MR. SPERLING: Destruction and/or removal  
4 of any DRG documents.  
5 BY MR. SCHUMM:  
6 Q Right. Would you be familiar with the  
7 destruction and/or removal of any DRG documents from  
8 1997 to the present?  
9 A No, I wouldn't.  
10 Q Who would know about what would have  
11 happened with respect to destruction or removal of  
12 documents?  
13 A I don't know. It might be Kim.  
14 MR. SPERLING: Kim is Ms. Stehman, correct?  
15 THE WITNESS: Ms. Stehman.  
16 BY MR. SCHUMM:  
17 Q To the best of your knowledge, what  
18 documents would have been destroyed and/or removed  
19 since 1997?  
20 A I don't know of any documents that were  
21 destroyed to the best of my knowledge. The only ones  
22 removed were the ones that were moved from that

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1 facility.  
2 Q And where are those records now?  
3 A That would be either with Ms. Stehman.  
4 MR. SPERLING: Or it was given to me, which  
5 I gave to Mr. Schumm.  
6 THE WITNESS: Correct.  
7 BY MR. SCHUMM:  
8 Q The next item is number 8 on that list.  
9 Did you ever have any discussion about  
10 retaining records with Ms. Stehman and the importance  
11 of retaining them?  
12 A I don't recall having the discussion, but I  
13 think that she definitely knew that retention of  
14 records is important. Whether she is under the  
15 impression that the backup tapes were adequate I  
16 guess --  
17 Q Are you finished with your answer? You're  
18 kind of tailing off there.  
19 A I'm sorry.  
20 Q That's okay.  
21 MR. SPERLING: Handling of medical, medical  
22 reimbursement --

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1 BY MR. SCHUMM:  
2 Q Yeah, let's ask that one, medical  
3 reimbursement and patient records.  
4 A What's your question?  
5 Q Are you the custodian of those?  
6 A No, I'm not.  
7 Q Would you have knowledge of that subject?  
8 A No, I would not.  
9 Q What happened to the billing records that  
10 would show the revenue generated by Diagnostic  
11 Resource Group?  
12 A They would have been on a computer.  
13 Q Where is that computer?  
14 A That would be the computer where the other  
15 logs were kept.  
16 Q What happened to that computer?  
17 A As I said, I'm not aware of where that  
18 computer is at this point.  
19 Q Is that your answer on behalf of the  
20 company?  
21 A Yes. Actually you know what? No, it's  
22 not.

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1 Q Who is the person who's going to respond on  
2 behalf of the company?  
3 MR. SPERLING: Who knows the information?  
4 Who can speak for the company as to that issue?  
5 A I'm just saying if Ms. Rittmiller knew  
6 where there were certain logs and things like that  
7 that she had, I don't know about it.  
8 Q Did you ask Ms. Rittmiller?  
9 A Yes.  
10 Q What did she say?  
11 A I believe she told me that she didn't know  
12 where they were.  
13 Q What time period would these records all  
14 relate to?  
15 A I guess from the time that the scanner was  
16 connected to I guess the last time that it was shut  
17 down.  
18 Q When was the last time it was shut down?  
19 A I think it was July. I'm not very good  
20 with dates. July of '99 was it?  
21 Q You have to keep your voice up. It's your  
22 recollection. You don't get to ask me.

7 (Pages 22 to 25)



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1 A July of '99.  
2 Q And when you say the scanner was connected,  
3 when did that occur?  
4 MR. SPERLING: Can you define connected?  
5 Because that's a little bit of what this case is  
6 about.  
7 MR. SCHUMM: That's what he said. It's his  
8 word.  
9 MR. SPERLING: You define connected.  
10 BY MR. SCHUMM:  
11 Q What do you mean by the scanner? You used  
12 the word scanner connected.  
13 First let me ask you what the time was for  
14 it. Then you can explain what you mean by it.  
15 A I guess it was connected I guess somewhere  
16 a year prior to that date.  
17 Q Do you know when it was first connected?  
18 A I think it was April of '98. Is that  
19 right?  
20 MR. SPERLING: Again it's your  
21 recollection, not mine, not Mr. Schumm's, not Mr.  
22 Hutton's, certainly not the court reporter's.

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1 THE WITNESS: I haven't asked her.  
2 MR. SPERLING: Now, the other question Mr.  
3 Schumm had asked was define what you meant by  
4 connected.  
5 BY MR. SCHUMM:  
6 Q Well, are we finished with the answer for  
7 April 1998?  
8 A Sure.  
9 MR. SPERLING: Now, what do you mean by  
10 connected?  
11 MR. SCHUMM: Right.  
12 MR. SPERLING: You said the scanner was  
13 connected.  
14 BY MR. SCHUMM:  
15 Q What do you mean?  
16 A I guess the day they brought the scanner  
17 into the office and essentially plugged it in.  
18 Q Finishing up with number 8 again, did you  
19 have any discussions with anybody relative to not  
20 retaining any documents?  
21 A Absolutely not.  
22 Q But in fact, the documents, based on your

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1 testimony, in fact weren't retained; isn't that  
2 right, at least some of them?  
3 A Some of them; that is correct.  
4 Q And why not?  
5 A I can't answer that. I don't know. I  
6 don't think they were not -- when you say some were  
7 not retained, there was nobody saying, don't retain  
8 these or throw these out. I just don't know at this  
9 point where they are.  
10 Q So your position on behalf of Diagnostic  
11 Resource Group is that they've gone missing?  
12 A Okay.  
13 Q Is that a fair characterization?  
14 A Yes.  
15 Q And they've gone missing since July of  
16 1999; is that also fair?  
17 A No, I don't know when they would have been  
18 gone missing.  
19 Q Was it after July 1999, or was it before  
20 July 1999?  
21 A I don't know. At that point in July 1999 I  
22 did not take an assessment of what records we had and

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1 what we didn't.  
2 Q Tell me what happened subsequent to July  
3 1999 with, as you just testified, the machine shut  
4 down? What happened thereafter at the location?  
5 MR. SPERLING: You mean the machine  
6 shutting down or afterwards or both?  
7 MR. SCHUMM: He testified before the  
8 machine was shut down, so I'm asking what happened at  
9 the location after that time?  
10 MR. SPERLING: Okay.  
11 A Not much actually. I'm sorry to be as  
12 blunt as that. Not much. It was a facility that was  
13 basically just an MRI facility, and without a working  
14 MRI, it was not very useful to us.  
15 Q Did you move records out of there  
16 immediately after this?  
17 A No, not immediately.  
18 Q When would they have moved out?  
19 A I don't know. There was a period of time.  
20 I don't know the date.  
21 Q When you say a period of time, you mean for  
22 a month it sort of sat there, and then things began

8 (Pages 26 to 29)

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1 to happen as the fall came on in September and so on,  
2 and the deinstallation occurred in --

3 A I would say that's a fair assessment.

4 MR. SPERLING: Let Mr. Schumm finish,  
5 please.

6 BY MR. SCHUMM:

7 Q -- the deinstallation occurred, give or  
8 take, in November, and then you formally vacated the  
9 premises and turned them back into the landlord?

10 A That's fairly accurate I would guess.

11 (Low Deposition Exhibit 2 was marked for  
12 identification and attached to transcript.)

13 BY MR. SCHUMM:

14 Q I'm going to show you what's been marked as  
15 Deposition Exhibit 2. This is the first request  
16 for -- Let me make sure I got the right document  
17 here. I think I did not get the right document. I  
18 put this on the wrong thing here. I may need to your  
19 borrow your copy machine for a second.

20 MR. SPERLING: Not a problem. Let's go off  
21 the record.

22 (Discussion off the record.)

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1 (Low Deposition Exhibit 2 was remarked for  
2 identification and attached to transcript.)

3 BY MR. SCHUMM:

4 Q I'm going to show you what's been marked  
5 Deposition Exhibit 2, Defendant Toshiba's Request for  
6 Production of Documents, which is directed to  
7 Plaintiff Diagnostic Resource Group, LLC.

8 Have you seen that document before?

9 A I believe so.

10 Q Let's look at number 1. Number 1 is  
11 corporate records, articles of incorporation, member  
12 owner agreements, by-laws, certificates, minute books  
13 and records of capital contributions.

14 Do you have any of those documents?

15 A No, those documents would be with Mr.  
16 Sperling.

17 MR. SPERLING: I'll just represent that I  
18 do not have any. They do not exist.

19 A You're on page 4 I guess?

20 Q That's right. That's number 1.

21 What happened to those documents, Mr.  
22 Sperling? Sorry. Not Mr. Sperling. Mr. Low.

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1 MR. SPERLING: Let me back up a second.

2 Let me flip to my answers. I looking through my  
3 response to the request for production to see what we  
4 said. Okay. Go ahead.

5 BY MR. SCHUMM:

6 Q Do you remember ever having the items set  
7 forth in number 1 on page 4; the corporate records,  
8 articles of incorporation, member owner agreements  
9 and so on?

10 A I do.

11 Q What happened to them?

12 A I don't know.

13 Q Do you know that the charter of the limited  
14 liability corporation was forfeited as of the time  
15 this lawsuit was filed?

16 A No.

17 Q Who would have been the last person you  
18 know of that had these records? And if you need to  
19 qualify your answer, I'm not trying to put anybody on  
20 the spot. If some of them were in one person's hands  
21 and some were in other hands, please clarify that.

22 A Right. I don't know who would have had

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1 those, whether myself or Ms. Stehman. I don't  
2 recall. And forgive me if I can't recall. It's been  
3 a long time.

4 Q What do you think happened to them?

5 A I don't think of what happened. I think  
6 they are either misplaced is my guess. And again  
7 please forgive me. It's been I guess six years or  
8 so, five years.

9 Q Do you have any documents in your personal  
10 custody that would reflect money you put into the  
11 company?

12 A No, I do not.

13 Q Did you put any money into the company?

14 A I believe I did.

15 Q How much was that?

16 A I don't recall.

17 Q Did you keep corporate minutes?

18 A I believe we did, yes.

19 Q Who was the secretary of the LLC who would  
20 have kept those minutes?

21 A It would have been Ms. Stehman.

22 Q Did Ms. Stehman have an ownership interest

9 (Pages 30 to 33)

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1 in the corporation?  
2 A She did not.  
3 Q Why was she the secretary?  
4 A She was basically the manager, I guess if  
5 you want to call her. It was an LLC, so I guess she  
6 was not a member of the company, but just someone who  
7 handled the daily business of the facility.  
8 Q Who was the managing member of the LLC?  
9 MR. SPERLING: Member or members if there  
10 were.  
11 MR. SCHUMM: Yeah. If there's more than  
12 one, that's fine too.  
13 A It was myself and Dr. Templeton.  
14 MR. SPERLING: Give a full name.  
15 THE WITNESS: Phillip Templeton,  
16 T-e-m-p-l-e-o-n.  
17 BY MR. SCHUMM:  
18 Q Does he have any records of Diagnostic  
19 Resource Group?  
20 A I don't believe so, no.  
21 Q Did he invest any money in Diagnostic  
22 Resource Group?

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1 A I believe he did. I don't recall how much.  
2 Q Do you have any idea how much was  
3 invested? Was it a dollar or \$10 or \$1,000?  
4 A Probably closer to \$50,000.  
5 Q Anything else you can recall about the  
6 items set forth in number 1?  
7 A No.  
8 Q Does Mr. Kreshtool have any of those  
9 documents?  
10 A I don't believe so.  
11 Q Did you ask him?  
12 A I have not. I believe at the time when I  
13 changed counsel, everything went to Mr. Sperling.  
14 Q Tell me what efforts have been made to find  
15 the documents and produce the documents set forth in  
16 number 1.  
17 A Searching any kind of bankers boxes that we  
18 might have and going through all old file cabinets  
19 and what have you to look for anything related to DRG  
20 at all.  
21 Q And where would those bankers boxes be  
22 located?

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1 A Now those bankers boxes are basically --  
2 they've been cleaned up and discarded.  
3 Q How about the old --  
4 A Any of the information relating to DRG from  
5 me was given to Mr. Sperling.  
6 Q And what about the old file cabinets?  
7 A I guess the furniture was sold.  
8 Q What happened to the records that were  
9 inside the furniture?  
10 A Any records that were related to DRG were  
11 taken out. Any other records not pertaining to DRG  
12 were --  
13 Q Were?  
14 A Put into other boxes.  
15 Q Where are those boxes?  
16 A I might have a couple in my office.  
17 Q And you've looked through those?  
18 A Absolutely.  
19 Q Now, had these records referred to in  
20 number 1 been disposed of prior to July of 1999?  
21 A I don't know that.  
22 Q Were they disposed of prior to that or not?

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1 A I don't recall disposing of any of them.  
2 Q Do you recall disposing of any records  
3 prior to July of 1999?  
4 A No.  
5 Q Let's go to number 2. Detailed income  
6 statements, trial balance records, general ledgers,  
7 detailed cash flow statements, essentially what I  
8 collectively define as financial records.  
9 Where are those records?  
10 A Again Mr. Sperling would have any of those  
11 records that I would have.  
12 Q What happened to the 1998 financial  
13 records?  
14 A I don't know the 1998 financial records.  
15 Q Was there ever an income statement prepared  
16 for 1998?  
17 A I would think yes, but I'm not positive.  
18 Q How about the general ledger, what happened  
19 to that?  
20 A That would either be on one of those -- the  
21 computer or, you know, as I say, one of those either  
22 computer or one of the logs that we might have.

10 (Pages 34 to 37)

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1 Q Where is the computer?  
2 A As I said before, I don't know.  
3 Q So it's missing?  
4 A Correct.  
5 MR. SPERLING: Just to clarify, is the  
6 computer missing or do you not know -- it's on a  
7 certain computer, but that computer is missing? Is  
8 that what happened or something else?  
9 THE WITNESS: It's missing.  
10 BY MR. SCHUMM:  
11 Q And you mentioned logs.  
12 When you say the word logs, what do you  
13 mean by that?  
14 A I mean just an area where -- or some  
15 vehicle that in writing was -- the information was  
16 written down.  
17 Q What would happen to records of uncollected  
18 billings?  
19 A That too would be on the computer.  
20 Q What happened to them?  
21 A That is missing with the computer.  
22 Q How about aged receivables?

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1 A The same.  
2 Q And aged payable records?  
3 A That as well.  
4 Q Was that computer disposed of before or  
5 after July of 1999?  
6 MR. SPERLING: By disposed of, he said the  
7 computer I think was missing. You mean went missing?  
8 MR. SCHUMM: Well, missing, whatever.  
9 Yeah.  
10 MR. SPERLING: When the computer was  
11 missing. Go ahead.  
12 BY MR. SCHUMM:  
13 Q Right. The computer is now gone.  
14 Did that occur after July of 1999?  
15 A Yes, I would believe so.  
16 Q What about bank statements, what happened  
17 to them, from 1998?  
18 A I gave everything I had to Mr. Sperling.  
19 Q If it's not in what he produced to me, does  
20 that mean that they're missing as well?  
21 A That would be correct, or Ms. Stehman might  
22 have those.

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1 Q Did you ask her for them?  
2 A I believe Mr. Sperling did.  
3 MR. SPERLING: Or the bank might have them,  
4 to be honest.  
5 MR. SCHUMM: Let's go off the record for a  
6 second.  
7 (Discussion off the record.)  
8 MR. SCHUMM: Why don't you read the last  
9 question and answer.  
10 (Record read by reporter.)  
11 BY MR. SCHUMM:  
12 Q So to the best of your knowledge, Mr.  
13 Sperling asked Ms. Stehman for the bank records. He  
14 produced some bank statements.  
15 If they weren't produced, you don't have  
16 any idea where they are anymore?  
17 A Correct.  
18 MR. SCHUMM: And particularly bank  
19 statements, Mr. Sperling, you didn't withhold any  
20 bank statements I take it?  
21 MR. SPERLING: No.  
22 A Can I say something also that might help?

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1 Q Sure. Yeah, you're definitely allowed to  
2 illuminate this issue.  
3 A I don't have anything pertaining to DRG any  
4 longer. Anything that I had I've given to Mr.  
5 Sperling. I don't have any Diagnostic Resource  
6 documents whatsoever. I've cleaned out everything.  
7 I have gone through every box. I don't have anything  
8 pertaining to DRG.  
9 Q So if he hasn't given it to me, it's gone  
10 missing for one reason or another?  
11 A Correct. Or somebody else might have had  
12 something and didn't give it to him.  
13 Q Who would that be?  
14 A Ms. Stehman, as we've talked about.  
15 Q But you asked her, I take it, to give  
16 everything she had to Mr. Sperling?  
17 A Absolutely.  
18 Q So if she withheld it, it was on her own  
19 volition, not because anybody in this room told her  
20 to withhold it?  
21 A Right.  
22 Q And do you have any reason to believe she

11 (Pages 38 to 41)

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1 would withhold those kind of records?  
2 A Absolutely not.  
3 Q How about revenue records, including  
4 records showing -- this is item number 3 -- showing  
5 Medicare, Medicaid, private payor, private insurance,  
6 governmental or insurance reimbursement, including  
7 explanations of benefits?  
8 A I do not have any of those records.  
9 Q And do you have any revenue records for any  
10 related party, which I defined as any other company  
11 in which you had an ownership interest to or from  
12 whom those revenues might have been transferred?  
13 A No.  
14 MR. SCHUMM: There was an objection with  
15 respect to this.  
16 MR. SPERLING: Right.  
17 MR. SCHUMM: Doesn't mean I can't ask the  
18 question.  
19 MR. SPERLING: Right. And the objection  
20 would be -- I'd say the same objection here as I did  
21 then. Let me just look at it again. Revenue records  
22 to whom or from whom a transfer was made. In other

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1 words, if company X was a party in which Mr. Low  
2 owned an interest and records or revenue from DRG,  
3 LLC, Diagnostic Resource Group, LLC, went to company  
4 X, then you would like to see the revenue records for  
5 company X; is that correct?  
6 MR. SCHUMM: That's right. That's in part  
7 right.  
8 MR. SPERLING: Now, so first of all, I've  
9 given an objection to production of any revenue  
10 records, but first of all, I guess the foundation  
11 question Mr. Schumm is asking for deposition --  
12 correct me if I'm wrong -- is was there any other  
13 party -- was there a company X? Was there somebody  
14 from whom -- to whom DRG, Diagnostic Resource Group,  
15 LLC revenue went? Correct me if I'm wrong on that  
16 question or if I'm misstating your question.  
17 MR. SCHUMM: That's approximately right,  
18 but I'll follow up.  
19 BY MR. SCHUMM:  
20 Q Go ahead. That's a good question. You can  
21 answer.  
22 A No.

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1 Q So no revenue from patients who had scans  
2 performed up at the White Marsh location, which is at  
3 issue in this lawsuit, none of those revenues were  
4 deposited into the accounts of anybody else other  
5 than a DRG account?  
6 A That is correct.  
7 Q Are you aware that's not consistent with  
8 the records in this case that have been produced?  
9 A No.  
10 Q Payroll summaries and payroll records set  
11 forth in number 4. Payroll summaries for each  
12 quarter and annual payroll summaries and U.S. tax  
13 form 1099 summaries for the end of each year since  
14 1996.  
15 Where are those records?  
16 A I don't know. My accountant probably would  
17 have a copy.  
18 Q Who is your accountant?  
19 A Vince Batyr.  
20 Q Did you ask him for them?  
21 A I've been trying to get a hold of him  
22 lately, and I will continue to do so until I do.

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1 Q Have you actually talked to him to ask him  
2 for these records?  
3 A No, I have not.  
4 Q When did you start trying to talk to him to  
5 ask him for these records?  
6 A I guess several weeks ago.  
7 Q Why didn't you do it last November?  
8 MR. SPERLING: I'll represent that I made  
9 the communication last November asking for those  
10 records.  
11 A I don't recall why.  
12 Q There's been no response from him in any  
13 respect to either of you with respect to the request  
14 for the records; is that a fair assumption?  
15 A I think he's been traveling.  
16 Q Where has he been traveling to?  
17 A I think he's been. I don't know if he has  
18 been. That's typically the only time I don't get a  
19 hold of him.  
20 Q Who would have been on the payroll at DRG?  
21 A I guess Ms. Stehman and Ms. Rittmiller.  
22 That's probably it.

12 (Pages 42 to 45)



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1 went on pregnancy leave?  
2 A Yeah.  
3 Q Do you recall when that was?  
4 A No.  
5 Q Was another radiation tech person brought  
6 in while she was away on pregnancy leave?  
7 A I don't remember.  
8 Q Do you remember a woman named Jennifer?  
9 A No.  
10 Q Who else would have worked out at the DRG  
11 premises?  
12 A I'm sorry. I'm trying to remember. Mena  
13 maybe.  
14 Q Could you spell that, and her last name,  
15 please?  
16 A I don't remember her last name. M-e-n-a.  
17 Begins with a D I think.  
18 Q And what were her job duties?  
19 A Reception, answering the phone, things like  
20 that.  
21 Q Anybody else?  
22 A No more than the ones we've mentioned.

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1 Q How about Debbie Rittmiller?  
2 A Yes.  
3 Q She worked there full time every day?  
4 A I don't recall her schedule.  
5 Q How often were you out at the Bel Air Road  
6 location?  
7 A Quite often.  
8 Q Does that mean once a week, twice a week,  
9 more in the beginning, less at the end?  
10 A Yeah, I would say that, less at the end,  
11 but three times a week at least depending on how many  
12 hours. I don't know. 12 hours at a time. I don't  
13 know.  
14 Q And why would you be there 12 hours?  
15 A Making phone calls.  
16 Q What were you making phone calls for?  
17 A Trying to get leads on prospective clients,  
18 accounts, things like that.  
19 Q Was this just for DRG or for all your  
20 businesses?  
21 A For DRG.  
22 Q You spent 12 hours there three days a week?

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1 A I don't know exactly 12 hours. I'm going  
2 to say I don't know. I can't recall.  
3 MR. SPERLING: Can we take a bathroom break?  
4 MR. SCHUMM: Yeah, why don't we take a  
5 five-minute break so everyone can run to the rest  
6 room and get water and all.  
7 (Recess 3:52 P.M. to 4:08 P.M.)  
8 BY MR. SCHUMM:  
9 Q We're picking up at 13. Maintenance  
10 records for all medical equipment indirectly or  
11 directly from Toshiba or medical equipment whose use  
12 is related to revenue claimed as damages.  
13 Do you have any additional testimony with  
14 respect to the maintenance records other than what we  
15 talked about before, that they've been disposed of,  
16 slash, gone missing?  
17 A No, I did not dispose of anything. They're  
18 missing, right.  
19 Q You say you didn't dispose of them, but  
20 what you're saying is you didn't intentionally go  
21 throw them in the garbage?  
22 A Exactly.

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1 Q On the other hand, they may have landed in  
2 the garbage, but such is life?  
3 A No.  
4 Q No?  
5 A I don't know. I don't know. The answer is  
6 I don't know.  
7 Q But they're gone?  
8 A They're missing, yeah. Believe me, I  
9 looked for all these, you know. The maintenance  
10 records helps me, you know, and sort of helps DRG in  
11 this whole thing, and believe me, I looked for these  
12 records, you know, and everything I got I've given to  
13 Mr. Sperling.  
14 Q I sort of covered this.  
15 Do you have any organization charts of DRG?  
16 A No.  
17 Q Did Ms. Stehman only work --  
18 Did any of the employees of DRG work for  
19 anybody else at the same time?  
20 A Yes.  
21 Q Who would those have been?  
22 A Ms. Stehman I guess.

22 (Pages 82 to 85)

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1 Q Okay. I saw you pass something back and  
2 forth. You've kind of got to not communicate with  
3 your attorneys. I've told my clients that.  
4 A I made this line right here.  
5 Q All right. That's fair enough.  
6 A I was going to doodle. Then I said I'm not  
7 going to.  
8 Q Oh, no. Doodling is good. I'm a doodler.  
9 A So am I constantly. I can cross this out  
10 if you want.  
11 Q Don't worry about it.  
12 Anybody else on the sort of organization  
13 chart of Diagnostic Resource Group?  
14 A Not that I recall.  
15 Q Records of Diagnostic Resource Group  
16 inventory and supplies, do you have any of those  
17 records?  
18 A No, I do not.  
19 Q What happened to them?  
20 A I don't have them. I don't know where they  
21 are. I don't know if Ms. Stehman has any of that or  
22 not.

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1 MR. SCHUMM: Is she coming this afternoon  
2 or not?  
3 MR. SPERLING: I was originally going to  
4 ask should we see if she can come this afternoon?  
5 THE WITNESS: If you want.  
6 MR. SCHUMM: That's not my point. I  
7 thought she was coming this afternoon. Then you said  
8 she was going to be a little late.  
9 MR. SPERLING: Yes. That's why I assumed  
10 we should start with Mr. Low.  
11 MR. SCHUMM: And if she was going to come  
12 late of course, we should just start with him. So I  
13 thought maybe she was coming, and I'm not -- she can  
14 come any time she wants today or tomorrow.  
15 MR. SPERLING: I'll check with her.  
16 (Discussion off the record.)  
17 BY MR. SCHUMM:  
18 Q DRG inventory and supplies, I think you  
19 said that those records are no longer available and  
20 gone missing.  
21 I take it they used to exist, but they're  
22 no longer in existence; is that right, Mr. Low?

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1 A Correct.  
2 Q Patient base analysis and physician  
3 referral analysis.  
4 Did you ever have any of these records and  
5 if they've been turned over to us?  
6 A Yes, and I don't know. Debbie Rittmiller  
7 probably would have had that information.  
8 Q But those would have been corporate  
9 records; isn't that right?  
10 A They would have been, yeah.  
11 Q And what happened to them?  
12 A I don't know. I don't know if she still  
13 has some of them. I don't know.  
14 Q Did anybody ask her?  
15 A Yeah, I spoke to her.  
16 Q Did she have any?  
17 A She's looking.  
18 Q When did you ask her?  
19 A I don't know. A couple of weeks ago.  
20 Q Did anybody ask her last November when I  
21 served the production request?  
22 A No, nobody has. I apologize for that.

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1 Q Number 17. Records related to all  
2 accounting and audit services provided to DRG.  
3 Have you produced all the records that you  
4 have?  
5 A That I have, yes.  
6 Q And how about the records that DRG has?  
7 A Yes. I will follow up.  
8 MR. SCHUMM: Could we go off the record  
9 for a second?  
10 (Discussion off the record.)  
11 MR. SPERLING: I spoke to Ms. Stehman  
12 several minutes ago, and Kimberly Stehman thought  
13 that she does not have anything that she has not  
14 already turned over in her possession. She's going  
15 to take a last check this weekend. Her deposition is  
16 being taken at 2:30 on Monday. She's going to bring  
17 anything that she finds there.  
18 MR. SCHUMM: So what we're going to do is  
19 when Mr. Low answers on behalf of DRG, he'll be able  
20 to say, subject to whatever she might say on Monday,  
21 that --  
22 MR. SPERLING: DRG does not have something.

24 (Pages 90 to 93)



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1 Q You're referring to the letter of Exhibit  
2 8. Continue, please. Thank you.  
3 A Okay.  
4 MR. SPERLING: Who's it from? Toshiba to  
5 Jeff Kreshtool.  
6 A I recall this portion of it, so I'm  
7 assuming on that date, April -- on the July 8th or  
8 whatever it was -- July, not April -- July 8th date,  
9 that the scanner went down again. I would say that I  
10 called, and I do remember the -- something's drawn in  
11 my memory about repair the system at our cost. After  
12 investigation it was determined that the warranty  
13 indeed expired on April 9th, 1999, and that was done  
14 after -- nothing like that was ever said to me that  
15 you will pay cost for, you know, time and materials  
16 until there's an agreement in place. That was never  
17 discussed. I do remember this. It was only after  
18 the fact that it had gone down in July. And number  
19 one, I didn't think it was the responsibility of the  
20 business. The business had suffered greatly because  
21 of the I guess poor reliability of the scanner, and I  
22 strongly felt that that warranty period was up in

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1 November just as I was told.  
2 Q Who told you it was up in November?  
3 A When this occurred, I had spoken to Gary  
4 Hall, and Gary told me that it was his understanding  
5 the same, that that year of warranty would start at  
6 delivery and acceptance because the reason why it  
7 wasn't accepted is because it didn't have a very good  
8 reliability record.  
9 Q What did you do to mitigate your damages on  
10 July 8th that you felt you were suffering?  
11 A If I can remember correctly, probably tried  
12 to call some of our what was left of referring client  
13 base to let them know that we had another issue with  
14 the scanner and to please bear with us, and that was  
15 probably it.  
16 Q What else did you do?  
17 A That's all I recall. I actually tried  
18 to -- I would think I tried to get Toshiba to come in  
19 and do the work and convince them that this was what  
20 they were supposed to do, and I didn't have an  
21 understanding of why, if my service plan or warranty  
22 had run out back in April, that I had May, June --

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1 actually it was April 9th it says, so basically  
2 two-thirds of April, May and June where Toshiba was  
3 continuing to fix -- come out and fix the scanner  
4 without mentioning to me about the warranty.  
5 Q How many times do you believe they had to  
6 come out and fix the scanner after April 9th?  
7 MR. SPERLING: You're not including the  
8 July 5th?  
9 THE WITNESS: Doesn't matter. I don't know.  
10 BY MR. SCHUMM:  
11 Q Are all the records gone that would have  
12 shown how many times they would have been called to  
13 fix it?  
14 A I believe so.  
15 Q Why are they gone?  
16 A I can't answer that.  
17 Q You have an attorney who says there's a  
18 dispute.  
19 Why didn't you preserve these records?  
20 A You know, these records are definitely in  
21 my -- they would be in my favor. Believe me, this is  
22 not something where, you know, if I knew where the

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1 records were -- we've searched for everything, for  
2 all the records of the entire business, and believe  
3 me, I would want to find them.  
4 Q That wasn't my question.  
5 Why weren't they preserved?  
6 A We thought we were preserving them.  
7 Q But you didn't preserve them, did you, even  
8 though you had threatened lost profits and damages?  
9 A Not very well.  
10 Q Why didn't you pay for the repair to the  
11 OPART immediately after July 5th?  
12 A I assumed that the business at that time  
13 couldn't afford it.  
14 MR. SPERLING: Again don't guess. Just  
15 what you know.  
16 BY MR. SCHUMM:  
17 Q How much money was in the bank account as  
18 of that time?  
19 A Don't know.  
20 Q Did you have other businesses that were in  
21 a position to lend money to this business to get it  
22 repaired?

37 (Pages 142 to 145)